

21 C.J.S. Courts § 45

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

D. Jurisdiction of Person

1. General Considerations

§ 45. Pleading personal jurisdiction; burden of pleading

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  32.5(2)

When personal jurisdiction over a defendant is asserted under a long arm statute, the complaint must allege facts bringing the case within the statute.

The plaintiff bears the initial burden of pleading allegations sufficient to confer the court's personal jurisdiction of the defendant,¹ including the burden to plead facts sufficient to bring a nonresident defendant within the reach of the state's long-arm statute.² If a complaint does not allege a sufficient basis to assert long-arm jurisdiction over the defendant, the court need not reach the issue of whether the defendant has the requisite minimum contacts with the state.³

After the plaintiff sufficiently pleads personal jurisdiction, the burden then shifts to the defendant to negate all potential bases for personal jurisdiction the plaintiff pled,⁴ on either a factual basis, by disproving the plaintiff's allegations, or a legal basis, by showing that the alleged facts taken as true

are legally insufficient to establish jurisdiction.⁵ A challenge to personal jurisdiction may be raised either as an affirmative defense in the answer or in a motion to dismiss for lack of jurisdiction over the person.⁶ In the absence of the defendant's contest of the issue, the court treats the plaintiff's allegations of long-arm jurisdiction as established.⁷

The plaintiff's failure to plead personal jurisdiction voids the service of process⁸ and defeats the court's jurisdiction.⁹

In determining whether a complaint alleges sufficient jurisdictional facts to bring the action within the long-arm statute, some states provide that the trial court must strictly construe the statute in favor of the nonresident defendant¹⁰ while other states provide that the court will construe pleadings and affidavits liberally in favor of establishing personal jurisdiction.¹¹

In determining whether specific personal jurisdiction is provided under the long-arm statute, courts will only consider the causes of action alleged in the complaint, not causes of action that could have been alleged under the facts presented but were not.¹²

Conclusory allegations by the plaintiff, without supporting facts, are insufficient to establish the court's personal jurisdiction over a nonresident defendant.¹³

CUMULATIVE SUPPLEMENT

Cases:

Non-resident, gadolinium-based contrast agent manufacturer's ownership of facility in New York did not establish personal jurisdiction under New York's long-arm statute because patient did not allege any connection between manufacturer's property in New York and her claimed injury in Florida, as result of injections of contrast agent before patient's MRI, so as to permit exercise of personal jurisdiction over manufacturer in negligence and strict products liability action brought against manufacturer by patient, who alleged that contrast agents did not pass through her body and, instead, were retained, thereby causing serious injuries. [N.Y. CPLR § 302\(a\)\(4\). Sabol v. Bayer Healthcare Pharm., Inc., 439 F. Supp. 3d 131 \(S.D. N.Y. 2020\).](#)

Consulting services company and its sole shareholder failed to allege sufficient jurisdictional facts to allow state to exercise specific jurisdiction over nonresident president of developer of software product under tortious act provision of long-arm statute in action by company and shareholder for breach of joint venture agreement for purpose of marketing and selling product; although there

were some general allegations within complaint that could have supported cause for fraudulent inducement, complaint did not specifically plead cause of action for fraudulent inducement, and, during evidentiary hearing on president's motion to dismiss for lack of jurisdiction, company and shareholder did not argue that president committed fraudulent inducement while in state. [Fla. Stat. Ann. § 48.193\(1\)\(a\)](#). [Wadley v. Nazelli](#), 223 So. 3d 1118 (Fla. 3d DCA 2017).

On a challenge to personal jurisdiction, if plaintiffs fail to meet their initial burden of pleading jurisdictional allegations, then a defendant can satisfy its burden by simply proving it is a nonresident. [CIBanco, S.A., Institucion de Banca Multiple v. Quezada](#), 656 S.W.3d 749 (Tex. App. El Paso 2022).

Interests of cattle buyer and its investors in adjudicating their claims against all of the defendants in the same forum weighed in favor of Texas's jurisdiction over president of cattle brokering company in action for fraud by buyer and investor; company litigated its own suit through a jury trial in Texas and company president testified at that trial, which indicated that the burden upon him to participate in litigation in Texas was not onerous. [Tex. Civ. Prac. & Rem. Code Ann. § 17.042](#). [Northwest Cattle Feeders, LLC v. O'Connell](#), 554 S.W.3d 711 (Tex. App. Fort Worth 2018), rule 53.7(f) motion granted, (Sept. 5, 2018) and petition for review filed, (Sept. 10, 2018).

[END OF SUPPLEMENT]

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Footnotes

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[Ala.—Ex parte McNeese Title, LLC](#), 82 So. 3d 670 (Ala. 2011).

[Fla.—Kingland Estates, Ltd. v. Davis](#), 170 So. 3d 825 (Fla. 3d DCA 2015).

[Mo.—Bryant v. Smith Interior Design Group, Inc.](#), 310 S.W.3d 227 (Mo. 2010).

[N.J.—Baanyan Software Services, Inc. v. Kuncha](#), 433 N.J. Super. 466, 81 A.3d 672 (App. Div. 2013).

[Or.—Munson v. Valley Energy Inv. Fund, U.S., LP](#), 264 Or. App. 679, 333 P.3d 1102 (2014).

[Tex.—TV Azteca v. Ruiz](#), 44 Media L. Rep. (BNA) 1443, 2016 WL 766927 (Tex. 2016).
- 2

[Conn.—Matthews v. SBA, Inc.](#), 149 Conn. App. 513, 89 A.3d 938 (2014), certification denied, 312 Conn. 917, 94 A.3d 642 (2014).

[Del.—Uribe v. Maryland Auto. Ins. Fund](#), 115 A.3d 1216 (Del. 2015).

[Fla.—Teva Pharmaceutical Industries v. Ruiz](#), 181 So. 3d 513 (Fla. 2d DCA 2015).

[Or.—Swank v. Terex Utilities, Inc.](#), 274 Or. App. 47, 360 P.3d 586 (2015), review denied, 358 Or. 551, 368 P.3d 26 (2016).

Tex.—Gray, Ritter & Graham, PC v. Goldman Phipps PLLC, 2015 WL 5895302 (Tex. App. Corpus Christi 2015), petition for review filed, (Feb. 8, 2016).

Wis.—Carlson v. Fidelity Motor Group, LLC, 2015 WI App 16, 360 Wis. 2d 369, 860 N.W.2d 299 (Ct. App. 2015).

Statutory language is sufficient

Fla.—Redwood Recovery Services, LLC v. Addle Hill, Inc., 140 So. 3d 1037 (Fla. 3d DCA 2014).

3 Fla.—Rollet v. de Bizemont, 159 So. 3d 351 (Fla. 3d DCA 2015).

4 Tex.—TV Azteca v. Ruiz, 44 Media L. Rep. (BNA) 1443, 2016 WL 766927 (Tex. 2016).

Wis.—Carlson v. Fidelity Motor Group, LLC, 2015 WI App 16, 360 Wis. 2d 369, 860 N.W.2d 299 (Ct. App. 2015).

Wyo.—Wise v. Ludlow, 2015 WY 43, 346 P.3d 1 (Wyo. 2015).

5 Tex.—Proppant Solutions, LLC v. Delgado, 471 S.W.3d 529 (Tex. App. Houston 1st Dist. 2015).

6 § 96.

7 Mich.—Glenn v. TPI Petroleum, Inc., 305 Mich. App. 698, 854 N.W.2d 509 (2014).

Minn.—Butler v. JLA Indus. Equipment, Inc., 845 N.W.2d 834 (Minn. Ct. App. 2014).

Wash.—Pruczinski v. Ashby, 185 Wash. App. 876, 343 P.3d 382 (Div. 3 2015), review granted, 183 Wash. 2d 1025, 355 P.3d 1154 (2015).

Wis.—Carlson v. Fidelity Motor Group, LLC, 2015 WI App 16, 360 Wis. 2d 369, 860 N.W.2d 299 (Ct. App. 2015).

As to the waiver of objections to personal jurisdiction, see §§ 97, 98.

As to estoppel to deny personal jurisdiction, see § 99.

8 Miss.—Lofton v. Lofton, 924 So. 2d 596 (Miss. Ct. App. 2006).

9 Del.—Uribe v. Maryland Auto. Ins. Fund, 115 A.3d 1216 (Del. 2015).

Fla.—Rollet v. de Bizemont, 159 So. 3d 351 (Fla. 3d DCA 2015).

Tex.—Bank of New York v. Chesapeake 34771 Land Trust, 456 S.W.3d 628 (Tex. App. El Paso 2015), review denied, (June 5, 2015).

10 Fla.—Rollet v. de Bizemont, 159 So. 3d 351 (Fla. 3d DCA 2015).

11 Or.—PNC Multifamily Capital Institutional Fund XXXIV Ltd. Partnership v. AOH-Regent Ltd. Partnership, 262 Or. App. 503, 329 P.3d 773 (2014).

Most favorable to plaintiff

D.C.—Thomas v. Disabled American Veterans Ass'n, 930 A.2d 997 (D.C. 2007).

12 Idaho—Telford v. Smith County, Texas, 155 Idaho 497, 314 P.3d 179 (2013).

13 Conn.—Matthews v. SBA, Inc., 149 Conn. App. 513, 89 A.3d 938 (2014), certification denied, 312 Conn. 917, 94 A.3d 642 (2014).

Tex.—[Booth v. Kontomitrás](#), 2016 WL 240887 (Tex. App. Beaumont 2016).

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